

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KATRINA BERAN,

Plaintiff,

vs.

VSL NORTH PLATTE COURT LLC,

Defendant.

7:21CV5003

**ORDER REVISING BRIEFING
SCHEDULE ON APPLICATION OF
STATUTORY CAPS ON DAMAGES**

This case is before the Court on a request from the parties via email from Plaintiff's counsel received after regular business hours on May 23, 2023, copying Defendant's counsel, requesting a short telephone conference on modification of the Order for simultaneous briefs on application of statutory caps on damages. *See* [Filing 90](#). Plaintiff represents that the parties agree with the Court's anticipated allocation of damages by awarding the entirety of Plaintiff's damages for emotional distress (\$500,000) to her NFEPA claim and all her punitive damages up to the statutory cap imposed by 42 USC §1981a to her Title VII claim. However, Plaintiff represents that the parties disagree on the number of Defendant's employees during the pertinent time to determine the statutory cap applicable in this case. The parties therefore request staggered rather than simultaneous briefing to resolve the issue of the applicable cap.

The Court finds the parties' request for staggered briefing reasonable under these circumstances, so the Court finds no need for a conference call. Today is the deadline for the parties' simultaneous briefs set out in the Court's Order. [Filing 90](#). That deadline is now set aside. Although the parties request a fairly compressed staggered briefing schedule, the Court believes that allowing a little more time than requested will facilitate the marshaling and submission of pertinent evidence and affidavits. Accordingly,

IT IS ORDERED that

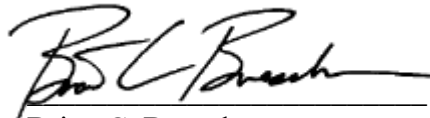
1. The parties' request for a conference call is denied.
2. The briefing schedule on the applicable cap on punitive damages under 42 U.S.C.

§ 1981a set out in the Court's Order, [Filing 90](#), is modified as follows:

- a. Defendant shall have to and including Friday, May 26, 2023, to file a brief not to exceed ten pages and any relevant evidence;
- b. Plaintiff shall have to and including Friday, June 2, 2023, to file a brief in response not to exceed ten pages and any relevant evidence; and
- c. Defendant shall have to and including Tuesday, June 6, 2023, to file a reply brief not to exceed five pages.

Dated this 24th day of May, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'B. C. Buescher', written over a horizontal line.

Brian C. Buescher
United States District Judge